

Customs & Trade in Israel

A Legal Newsletter

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The Court Orders the Customs Authority to Respond to Queries Regarding the Bankruptcy of a Customs Brokerage Company

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General:

An import company used to pay its import duties through Shay Logistics Services Ltd., a Customs Agent as defined by the Customs Agents Law, 1964. At some point the customs agent went bankrupt, the banks ceased to honor his payment orders and funds transferred to him by clients for duty payments did not reach their destination. The Customs Authority issued a payment demand for an accumulated 73,000 ILS in unpaid fees to the customs agent.

The following article reviews a request by the import company that the court order the Customs Authority to answer two questions, which were included in a questionnaire sent to the Customs Authority as part of the preliminary proceedings in the case.

The Dispute and The Court's Ruling:

With regard to one question in the questionnaire, the company requested that the Customs Authority detail the actions it took following the bankruptcy of the customs agent in order to realize the guarantees it received for insuring his commitments. The Customs Authority responded that it may not provide documents regarding performed foreclosures due to confidentiality considerations under section 231a of the Customs Ordinance.

The court ruled that under the circumstances the removal of confidentiality can be justified. First, the court determined that even if we assume the section applies to the requested information, it appears the matter in hand is not part of the intent of the confidentiality order, as the information relates to an external enforcement outside the Customs Ordinance (realizing guarantees), and not to all related documents held by the Customs Authority. Second, the court determined that the guarantor who is allegedly supposed to be protected by the confidentiality order, agreed to the transfer of all documents related to him which are held by the Customs Authority. Third, the court determined that the relevance of the information cannot be dismissed at this stage, as the claim argues that the Customs Authority did not act in order to minimize the damage caused by the customs agent's bankruptcy.

Therefore, the court ruled that the fact that the guarantor was in bankruptcy proceedings may be significant, but not enough for an a priori dismissal of the possibility that the question of which actions

were taken by the Customs Authority to collect the debt will be important. Therefore, the court ordered the Customs Authority to provide a full answer to the company's question.

The second question relates to the Statement of Defense presented by the Customs Authority. The Customs Authority detailed its efforts to reduce risk from customs agents' bankruptcy, due to a ruling given a few years earlier in the case of customs agent who went bankrupt in which the Customs Authority was found liable.

In light of above, the company requested that the Customs Authority detail the actions it took in order to change an arrangement which allows banks not to honor retroactive payment orders up to 5 days following a clearing by the Customs Authority, and provide the relevant documents.

The court ruled that once the Customs Authority argued that it acted to change the clearing arrangement, and even mentioned it as part of its lessons learned, it may no longer argue that the matter is irrelevant. A request that the Customs Authority detail its actions is reasonable, especially since the Customs Authority does not argue that it will be difficult to provide the documents. Therefore, the court ordered the Customs Authority to answer the question.

In conclusion, the court ruled that the Customs Authority will provide supplementary answers and will cover court costs amounting to 1,000 ILS.

The import company was represented by our firm.

[TA 62291-12-16, **Danny & Doron Carpets Ltd. & Others V. Israel Customs Authority - Customs**, ruling given on 25.7.18. Presiding judge: Avraham Stav]

**The above review is a summary. The information presented is for informative purposes only,
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